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| 09/690,159 | 10/17/2000 | Oleg B. Rashkovskiy | INTL-0472-US (P10019) | 2744 |

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| EXAMINER |
|---|
| VU, NGOC K |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2611 | |

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Please find below and/or attached an Office communication concerning this application or proceeding.



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| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/690,159 | RASHKOVSKIY, OLEG B. | |
| | Examiner | Art Unit | |
| | Ngoc K. Vu | 2611 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *05 November 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *7-10 and 17-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *7-10 and 17-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed November 5, 2002 with respect to claims 7-10 and 17-33 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 7-10 and 17-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding the independent claims 7, 17 and 21, each claim recites the limitation of "comparing the rating for the content to a rating of the same one or more characteristics specified by an advertiser" that is not clear what the term "rating of the same one or more characteristics" referred to. According to the specification, the rating of a particular item of content currently being played by the user may be compared to a rating required by a particular advertiser. If there is a match, the nature of the content is compared to more specific requirements for types of content desired by the advertiser (see page 15 and lines 25+). The best understood, the above limitation is simply read as comparing the rating of the content to the rating of the advertisement content specified by an advertiser. Appropriated correction is requested.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 7-10 and 17-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Levitan et al (US 2002/0073421 A1).

Regarding claim 7, Levitan discloses a method comprising: allowing the use of a content on a content receiver (for instance, primary component or television program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component); accessing a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc); comparing a rating for the content to a rating of the advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023).

Regarding claim 8, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 9, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 10, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 31, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 17, Levitan discloses an article comprising a medium for storing instructions (programmable software) that enable a processor-based system performs: allowing the use of a content on a content receiver (for instance, primary component or television program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (automatically interrupting the television program to present a commercial by replacing a portion of the television program with advertising or alternative component); accessing a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc); comparing a rating for the content to a rating of the

advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023).

Regarding claim 18, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 19, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 20, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 32, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

Regarding claim 21, Levitan discloses a system (14) comprising: a receiver (24) that receivers the transmission of content (for instance, television program), the receiver including a shell (22) to enable the use of content to be interrupted and temporarily replaced with advertising (client computer 22 interrupts the television program to present a commercial by replacing a portion of the television program with advertising or alternative component. For instance, depending on viewer's preference the system may replace a certain scene of the

television program by a commercial (see abstract; page 1, 0010; page 2, 0022); and storage (28) coupled to the receiver storing instruction that enable the receiver to access a predetermined rating assigned to one or more characteristics of the content, the rating based on the degree to which the one or more characteristics is present within content, the rating based on the degree to which the one or more characteristics is present within content (determining a certain scene of the television program contains rating such as violence, sex, and explicit language ...etc), and compare a rating for the content to a rating of the advertisement content (comparing viewer's data with descriptive data of primary and alternative components the computer makes a decision on presentation of the primary component to viewer or replacement of the primary component by an alternative component) (see abstract; page 1, 0010; page 3, 0023 and figure 2).

Regarding claim 22, Levitan shows that the system is a television receiver (see figure 2).

Regarding claims 23-27, Levitan discloses that the receiver determines and output a targeted advertisement based on the television program content (see page 1, 0007, 0010; page 3, 023).

Regarding claim 28, Levitan further discloses automatically replacing the content with advertising after allowing content to be used (watching the television program) at a predetermined time period (see page 3, 0023).

Regarding claim 29, Levitan further discloses automatically determining at predetermined times whether to replace the content (makes a decision on presentation of the primary component to viewer or a replacement of the primary component by an alternative component) (see page 0023).

Regarding claim 30, Levitan discloses enabling a variety of content (for instance, content information contained within plurality of channel) to be selected for play at any time (see page 2, 0019).

Regarding claim 32, Levitan discloses determining the rating assigned to one or more characteristics of the content. For instance, the system replaces a certain scene of the television program with a controversial matter, such as sex or violence, by a commercial (see page 1, 0007).

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huber discloses a method and system for selecting different versions of one or more broadcast program.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV
January 9, 2003

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600